

STATE OF MICHIGAN
IN THE SUPREME COURT

MELISSA MAYS, MICHAEL ADAM
MAYS, JACQUELINE PEMBERTON,
KEITH JOHN PEMBERTON, ELNORA
CARTHAN, and RHONDA KELSO,

Supreme Court No. 157335

Court of Appeals No. 335555
Consolidated with Docket Nos.
335725 and 335726

Plaintiffs-Appellees,

Court of Claims No. 16-000017-MM

v

GOVERNOR RICK SNYDER, STATE OF
MICHIGAN, MICHIGAN DEPARTMENT
OF ENVIRONMENTAL QUALITY, and
MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

Defendants-Appellants.

**STATE DEFENDANTS' RESPONSE TO PLAINTIFFS' SUPPLEMENTAL
AUTHORITY**

Both opinions in *Jones v Powell*, 462 Mich 329 (2000), held that the constitutional tort claims made possible by *Smith v Department of Public Health*, 428 Mich 540 (1987), are limited, along other things, “to specific situations where a plaintiff has no alternative remedy.” *Jones*, 462 Mich at 337, 339. The *Guertin* opinion Plaintiffs offer as supplemental authority further confirms what State Defendants argue in Section II of their application: a remedy already exists to address Plaintiffs’ alleged violation of their due process rights. Thus, the Court of Appeals’ affirmation of the creation of the constitutional tort, and the Court of Appeals’ other holdings stemming from that affirmation, constitute reversible error this Court must correct.

Respectfully submitted,

/s/ Nathan A. Gambill

Richard S. Kuhl (P42042)
Margaret A. Bettenhausen (P75046)
Nathan A. Gambill (P75506)
Zachary C. Larsen (P72189)
Assistant Attorneys General
Attorneys for Defendants-Appellants
former Gov. Rick Snyder, State of
Michigan, MDEQ, and MDHHS
Environment, Natural Resources, and
Agriculture Division
P.O. Box 30755
Lansing, MI 48909
(517) 373-7540
kuhlr@michigan.gov
bettenhausenm@michigan.gov
gambilln@michigan.gov
larsenz@michigan.gov

Eugene Driker (P12959)
Morley Witus (P30895)
Todd R. Mendel (P55447)
Special Assistant Attorneys General
for former Governor Richard D.
Snyder
Barris, Sott, Denn & Driker, PLLC
333 W. Fort Street, Suite 1200
Detroit, MI 48226
(313) 965-9725
edriker@bsdd.com
mwitus@bsdd.com
tmendel@bsdd.com

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